

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

DEBORAH LAUFER, Individually,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 1:20-cv-00407
	:	
DRASHTI BATAVIA LLC, A New York	:	
Corporation,	:	
	:	
Defendant.	:	
_____	:	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE SURREPLY**

Plaintiff in the above-captioned case, through counsel, respectfully moves for leave to submit a Surreply in response to new arguments and factual claims made by Defendant in their Reply Memorandum in Support of their Motion to Dismiss. These arguments and claims did not appear in the Defendant’s previous brief, and thus Plaintiffs have not had an opportunity to respond.

“The standard for granting a leave to file a surreply is whether the party making the motion would be unable to contest matters presented to the court for the first time in the opposing party's reply.” *Lewis v. Rumsfeld*, 154 F. Supp. 2d 56, 61 (D.D.C. 2001). Plaintiff satisfies this standard because Defendant’s reply brief presents several matters for the first time, and Plaintiff has not been able to contest these matters. “District court[s] routinely grant[] such motions” when this standard is satisfied. *Ben-Kotel v. Howard Univ.*, 319 F.3d 532, 536 (D.C. Cir. 2003).

For these reasons, counsel for Plaintiff respectfully request leave to file a Surreply.

Respectfully Submitted,

/s/ Tristan W. Gillespie

Tristan W. Gillespie, Esq.  
THOMAS B. BACON, P.A.  
5150 Cottage Farm Rd.  
Johns Creek, GA 30022  
Tel: 404.276.7277  
[gillespie.tristan@gmail.com](mailto:gillespie.tristan@gmail.com)  
NY Bar # 4443461